SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

SECOND REGULAR SESSION FIFTY-NINTH LEGISLATURE

SEVENTY-EIGHTH LEGISLATIVE DAY MONDAY, MARCH 24, 2008

Senate Chamber

President Risch called the Senate to order at 10 a.m.

Roll call showed all members present except Senator Gannon, absent and formally excused by the Chair; and Senators Cameron, Coiner, Pearce, and Stegner, absent and excused.

Prayer was offered by Chaplain Goebel.

The Pledge of Allegiance was led by Brigette Borup, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 20, 2008, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

Senator Cameron was recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

SP 102 BY STATE AFFAIRS COMMITTEE A PROCLAMATION

COMMENDING THE CALAM SHRINE TEMPLE ON ITS ONE HUNDREDTH ANNIVERSARY.

We, the members of the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-ninth Idaho Legislature, recognize and commend the Calam Shrine Temple in Lewiston on its one hundredth anniversary.

WHEREAS, the Calam Shrine Temple was founded one hundred years ago on July 15, 1908, is located in Lewiston, and has 600 members who reside in North Idaho within the jurisdiction ranging from Riggins north to the Canadian boundary and east and west within Idaho state boundaries; and

WHEREAS, the Shriners are the oldest philanthropic fraternity in the United States with their first hospital having opened in 1922; and

WHEREAS, the Shriners opened a hospital in Spokane, Washington in 1924, and having moved four times are currently in a state-of-the-art facility; and

WHEREAS, the Shriners operate 22 hospitals for children in North America with a 2008 budget of almost \$850 million; and

WHEREAS, four of these hospitals are burn centers featuring the most advanced pediatric burn care available and the other eighteen hospitals specialize in treating a number of conditions; and

WHEREAS, the Shriners Hospitals specialize in treatment for children up to eighteen years of age, with care provided at absolutely zero cost to the patient or the patient's family; and

WHEREAS, the Calam Shrine Temple conducts screening clinics throughout the Northern Idaho area several times a year to locate and assist local children who need certain specialized care and these clinics are advertised throughout the school system and the medical community; and

WHEREAS, in 2007, as a direct result of Calam Shriners, an additional 195 deserving children of North Idaho were introduced to state-of-the-art, cutting edge pediatric medical care at no cost to themselves or their families.

NOW, THEREFORE, BE IT PROCLAIMED by the members of the Senate assembled in the Second Regular Session of the Fifty-ninth Idaho Legislature, that we recognize and commend the Calam Shrine Temple for its one hundred years of service to the citizens of Idaho.

SP 102 was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senators Coiner and Pearce were recorded present at this order of business.

March 20, 2008

The JUDICIARY AND RULES Committee reports that S 1435, as amended, S 1444, as amended, and S 1449, as amended, have been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled S 1435, as amended, S 1444, as amended, and S 1449, as amended, and ordered them transmitted to the House for the signature of the Speaker.

March 20, 2008

The JUDICIARY AND RULES Committee reports that Enrolled S 1339, as amended, as amended in the House, and S 1370, as amended in the House, were delivered to the Office of the Governor at 4:15 p.m. on March 20, 2008.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

March 20, 2008

The COMMERCE AND HUMAN RESOURCES Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Judie Wright as Administrator of the Department of Human Resources, to serve at the pleasure of the Governor.

ANDREASON, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 21, 2008

The STATE AFFAIRS Committee reports it has had under consideration the Gubernatorial appointments listed below and the Committee recommends that said appointments be confirmed by the Senate:

Carla Campo to the Bingo-Raffle Advisory Board, term to expire January 7, 2009;

Darrell Kerby to the Idaho Energy Resources Authority, term to expire June 30, 2012.

McKENZIE, Chairman

The Gubernatorial appointments were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 20, 2008

The COMMERCE AND HUMAN RESOURCES Committee reports out **H** 592 and **H** 451, as amended, with the recommendation that they do pass.

ANDREASON, Chairman

H 592 and H 451, as amended, were filed for second reading.

March 20, 2008

The COMMERCE AND HUMAN RESOURCES Committee reports out **H** 380, as amended, as amended, with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

ANDREASON, Chairman

There being no objection, **H 380**, as amended, as amended, was referred to the Fourteenth Order of Business, General Calendar.

March 20, 2008

The EDUCATION Committee reports out **H 618** with the recommendation that it do pass.

GOEDDE, Chairman

H 618 was filed for second reading.

March 20, 2008

The EDUCATION Committee reports out **S 1408** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

GOEDDE, Chairman

There being no objection, S 1408 was referred to the Fourteenth Order of Business, General Calendar.

March 21, 2008

The STATE AFFAIRS Committee reports out HCR 54, HCR 45, HCR 52, H 559, and S 1485 with the recommendation that they do pass.

McKENZIE, Chairman

HCR 54, HCR 45, and HCR 52 were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

H 559 and S 1485 were filed for second reading.

March 20, 2008

The STATE AFFAIRS Committee reports out **H 630** with the recommendation that it do pass, and with the recommendation that it be placed on the Consent Calendar.

McKENZIE, Chairman

H 630 was filed for second reading.

March 24, 2008

The STATE AFFAIRS Committee reports out **H 606** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

McKENZIE, Chairman

There being no objection, **H 606** was referred to the Fourteenth Order of Business, General Calendar.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

Messages from the House

March 24, 2008

March 20, 2008

The Honorable James E. Risch President of the Senate Idaho Legislature

Dear Mr. President:

I have the honor to inform you that I have appointed Jeanne Gannon of Buhl, Idaho, to be Acting State Senator for Legislative District 23. This appointment will be effective March 24, 2008, and continue until such time as Senator Tom Gannon is able to resume his duties.

As Always - Idaho, *Esto Perpetua* /s/ C. L. 'Butch' Otter Governor

THE OFFICE OF THE GOVERNOR EXECUTIVE DEPARTMENT BOISE, IDAHO

CERTIFICATE OF APPOINTMENT

KNOW ALL MEN, by these Presents that pursuant to the provisions of Section 59-917, *Idaho Code*, Tom Gannon, State Senator, District 23, Owyhee and Twin Falls Counties, State of Idaho, has nominated Jeanne Gannon of Buhl, Idaho, to perform the duties of this office temporarily as Acting State Senator, District 23, Owyhee and Twin Falls Counties.

NOW, THEREFORE, I, C. L. 'Butch' Otter, Governor of the State of Idaho, by virtue of the authority vested in me do hereby appoint Jeanne Gannon to the office of State Senator, District 23, Owyhee and Twin Falls Counties, State of Idaho, for a term commencing on March 24, 2008, and continuing until such time as Senator Tom Gannon is able to resume his duties.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho.

Done at Boise, the Capital of Idaho, this twenty-fourth day of March, in the year of our Lord Two thousand and eight and of the Independence of the United States of America, the two hundred and thirty-third year.

/s/ BY THE GOVERNOR C. L. 'Butch' Otter /s/ SECRETARY OF STATE BEN YSURSA

The correspondence and Certificate of Appointment were ordered filed in the office of the Secretary of the Senate.

The President announced that the Oath of Office had been administered previously to Acting Senator Gannon, and she was recorded present at this order of business.

The Senate advanced to the Ninth Order of Business.

Mr. President:

I transmit herewith **H 667**, **H 668**, **H 669**, **H 670**, and **H 672**, which have passed the House.

ALEXANDER, Chief Clerk

H 667, H 668, H 669, H 670, and **H 672** were filed for first reading

March 21, 2008

Mr. President:

I transmit herewith HJR 4, H 599, as amended, H 612, as amended, H 661, and H 673, which have passed the House.

ALEXANDER, Chief Clerk

HJR 4, H 599, as amended, H 612, as amended, H 661, and H 673 were filed for first reading.

March 21, 2008

Mr. President:

I return herewith SCR 136, S 1497, S 1498, S 1499, and S 1500, which have passed the House.

ALEXANDER, Chief Clerk

SCR 136, S 1497, S 1498, S 1499, and S 1500 were referred to the Judiciary and Rules Committee for enrolling.

March 21, 2008

Mr. President:

I return herewith SCR 134, which has failed to pass the House.

ALEXANDER, Chief Clerk

SCR 134 was ordered filed in the office of the Secretary of the Senate.

March 21, 2008

Mr. President:

I transmit herewith Enrolled HJM 11, HCR 53, HCR 58, H 448, H 449, H 450, H 563, H 564, H 588, H 591, as amended, H 604, H 615, H 619, H 644, H 645, H 648, H 650, H 652, and H 653 for the signature of the President.

ALEXANDER, Chief Clerk

The President signed Enrolled HJM 11, HCR 53, HCR 58, H 448, H 449, H 450, H 563, H 564, H 588, H 591, as amended, H 604, H 615, H 619, H 644, H 645, H 648, H 650, H 652, and H 653 and ordered them returned to the House.

March 21, 2008

Mr. President:

I return herewith Enrolled S 1393, S 1394, S 1395, S 1398, as amended, S 1401, S 1420, as amended, S 1422, as amended, S 1424, S 1432, S 1433, as amended, S 1441, S 1443, S 1446, S 1450, S 1487, S 1488, S 1489, S 1490, S 1491, S 1492, S 1493, S 1494, S 1495, S 1496, S 1477, S 1478, S 1479, S 1480, S 1481, S 1482, and S 1483, which have been signed by the Speaker.

ALEXANDER, Chief Clerk

Enrolled S 1393, S 1394, S 1395, S 1398, as amended, S 1401, S 1420, as amended, S 1422, as amended, S 1424, S 1432, S 1433, as amended, S 1441, S 1443, S 1446, S 1450, S 1487, S 1488, S 1489, S 1490, S 1491, S 1492, S 1493, S 1494, S 1495, S 1496, S 1477, S 1478, S 1479, S 1480, S 1481, S 1482, and S 1483 were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

President Risch called President Pro Tempore Geddes to the Chair.

Senator Stegner was recorded present at this order of business.

S 1512 BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO EXEMPTIONS FROM MOTOR VEHICLE OPERATING FEES; AMENDING SECTION 49-426, IDAHO CODE, TO DELETE EXEMPTION FROM OPERATING FEES FOR MOTOR VEHICLES OWNED OR LEASED BY CERTAIN GOVERNMENTAL ENTITIES.

S 1513 BY STATE AFFAIRS COMMITTEE AN ACT

RELATING TO EMPLOYMENT OF UNAUTHORIZED ALIENS; PROVIDING LEGISLATIVE FINDINGS; AMENDING SECTION 18-3001, IDAHO CODE, TO PROVIDE CRIMINAL PENALTIES FOR EVERY PERSON WHO FALSELY PERSONATES ANOTHER, AND IN SUCH ASSUMED CHARACTER, ATTEMPTS TO OBTAIN OR DOES OBTAIN EMPLOYMENT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 3, TITLE 44, IDAHO CODE, TO DEFINE TERMS, TO PROHIBIT THE EMPLOYMENT OF UNAUTHORIZED ALIENS, TO PROVIDE PROCEDURES, TO PROVIDE PENALTIES, TO

PROVIDE THAT AN EMPLOYER DOES NOT HAVE TO TAKE ANY ACTION THAT THE EMPLOYER BELIEVES IN GOOD FAITH WOULD VIOLATE FEDERAL OR STATE LAW, TO PROVIDE DUTIES OF THE STATE OF IDAHO, TO PROVIDE A PERFORMANCE EVALUATION, TO REQUIRE EMPLOYEE VERIFICATION WHEN AWARDING CONTRACTS BY THE STATE OR POLITICAL SUBDIVISIONS AND TO DEFINE A TERM; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3035D, IDAHO CODE, TO PROVIDE THAT THE STATE TAX COMMISSION SHALL PROVIDE NOTICE TO EMPLOYERS OF THE REQUIREMENTS NOT TO EMPLOY UNAUTHORIZED ALIENS; PROVIDING SEVERABILITY; AND PROVIDING EFFECTIVE DATES.

S 1514 BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ELECTIONS; TO PROVIDE LEGISLATIVE FINDINGS RELATING TO A PERSON WHO CHANGES THEIR NAME TO THAT OF A POLITICAL MESSAGE AND SEEKS TO HAVE THAT POLITICAL MESSAGE PLACED ON THE BALLOT AS A CANDIDATE; AMENDING CHAPTER 9, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-903A, IDAHO CODE, TO PROVIDE DUTIES OF THE SECRETARY OF STATE OR COUNTY CLERK WHEN A PERSON HAS FILED AS A CANDIDATE AND THE PERSON HAS CHANGED THEIR NAME TO WORDS THAT CONVEY OR ATTEMPT TO CONVEY A POLITICAL MESSAGE AND TO PROVIDE FOR A NOTATION ON THE BALLOT IF CERTAIN CRITERIA ARE MET; AND DECLARING AN EMERGENCY.

- S 1512, S 1513, and S 1514, were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.
- H 667, H 668, H 669, H 670, and H 672, by Appropriations Committee, were introduced, read the first time at length, and referred to the Finance Committee.
- **HJR 4**, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.
- **H 599**, as amended, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.
- **H 612**, as amended, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.
- **H 661**, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.
- **H** 673, by Appropriations Committee, was introduced, read the first time at length, and referred to the Finance Committee.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business.

Reports of Standing Committees

March 24, 2008

The JUDICIARY AND RULES Committee reports that **S 1514** has been correctly printed.

DARRINGTON, Chairman

S 1514 was referred to the State Affairs Committee.

March 24, 2008

The STATE AFFAIRS Committee reports out **S 1514** with the recommendation that it do pass.

McKENZIE, Chairman

S 1514 was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

H 646, H 647, H 649, H 651, H 658, H 659, H 660, H 665, and H 666, by Appropriations Committee, were read the second time at length and filed for third reading.

- **S** 1356, as amended in the House, by Judiciary and Rules Committee, was read the second time at length and filed for third reading.
- **S** 1374, as amended in the House, by Resources and Environment Committee, was read the second time at length and filed for third reading.
- **S 1426**, as amended in the House, by Health and Welfare Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

On request by Senator Goedde, granted by unanimous consent, **H** 607, having been held, was referred to the Fourteenth Order of Business, General Calendar.

The President returned to the Chair.

H 550, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Heinrich arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Siddoway, Stennett. Total - 28.

NAYS--Bilyeu, Burkett, Gannon (Gannon), Little, Schroeder, Stegner, Werk. Total - 7.

Total - 35.

Whereupon the President declared **H 550** passed, title was approved, and the bill ordered returned to the House.

President Risch called President Pro Tempore Geddes to the Chair.

H 586, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Langhorst arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Gannon (Gannon), Hill, Kelly, Langhorst, Little, Sagness (Malepeai), Schroeder, Stegner, Stennett, Werk. Total - 20.

NAYS--Bair, Fulcher, Geddes, Goedde, Hammond, Heinrich, Jorgenson, Keough, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Siddoway. Total - 15.

Total - 35.

Whereupon the President Pro Tempore declared H 586 passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business

Reports of Standing Committees

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate recessed at 12:30 p.m. until the hour of 1:30 p.m. of this day.

RECESS AFTERNOON SESSION

The Senate reconvened at 1:30 p.m., pursuant to recess, President Risch presiding.

Roll call showed all members present except Senator Burkett, absent and formally excused by the Chair; and Senators Coiner, Corder, Goedde, Keough, Lodge, McKenzie, Pearce, Schroeder, and Stegner, absent and excused.

Prior to recess the Senate was at the Sixth Order of Business, Reports of Standing Committees.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

Senators Coiner and Lodge were recorded present at this order of business.

H 556 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Broadsword arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Darrington, Davis, Fulcher, Gannon (Gannon), Geddes, Hammond, Heinrich, Hill, Jorgenson, Kelly, Langhorst, Little, Lodge, McGee, McKague, Richardson, Sagness (Malepeai), Siddoway, Stennett, Werk. Total - 27.

NAYS--None.

Absent and excused--Burkett, Corder, Goedde, Keough, McKenzie, Pearce, Schroeder, Stegner. Total - 8.

Total - 35.

Whereupon the President declared **H 556** passed, title was approved, and the bill ordered returned to the House.

Senators Corder, Goedde, Keough, McKenzie, Pearce, Schroeder, and Stegner were recorded present at this order of business.

H 657 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hammond arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Moved by Senator Schroeder, seconded by Senator Pearce, that **H 657** be referred to the Fourteenth Order of Business for amendment. The question being, "Shall the motion prevail?"

Whereupon the President declared that by voice vote the motion did not prevail.

The question being, "Shall H 657 pass?"

Roll call resulted as follows:

AYES--Andreason, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Corder, Darrington, Davis, Fulcher, Gannon (Gannon), Geddes, Goedde, Hammond, Heinrich, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Richardson, Sagness (Malepeai), Stegner, Stennett, Werk. Total - 29.

NAYS--Bair, Coiner, Hill, Pearce, Schroeder, Siddoway. Total - 6.

Paired and voting included in roll call:

AYE - Burkett NAY - Pearce

Total - 35.

Whereupon the President declared **H 657** passed, title was approved, and the bill ordered returned to the House.

H 489, as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Stegner arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon (Gannon), Geddes, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 33.

NAYS--None.

Absent and excused--Burkett, Goedde. Total - 2.

Total - 35.

Whereupon the President declared **H 489**, as amended, passed, title was approved, and the bill ordered returned to the House.

The President called President Pro Tempore Geddes to the Chair.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Twelfth Order of Business.

Second Reading of Bills

Suspension of Rules

On request by Senator Stegner, granted by unanimous consent, all rules of the Senate interfering with the immediate passage of **S 1514** were suspended, and the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days were dispensed with, this being a case of urgency.

S 1514 was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Davis arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon (Gannon), Geddes, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 33.

NAYS--None.

Absent and excused--Burkett, Goedde. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared S 1514 passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 3:10 p.m. until the hour of 9:30 a.m., Tuesday, March 25, 2008.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary